

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

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.....
1841.

CHAP. 159.

fully assembled,
or refusing to
assist, in like
case.

such persons, or any persons present as spectators or otherwise, shall be killed or wounded, the said magistrates and officers, and persons acting with them by the order or direction of the governor, or any judge, sheriff, magistrates or officers, as mentioned in the preceding section, shall be held guiltless and justified in law: and, if any of said magistrates, or officers or persons acting by such order or direction, shall be killed or wounded, all persons, so unlawfully or riotously assembled, and all other persons, who, when commanded or required, shall have refused to aid and assist the said magistrates or officers, shall be held answerable therefor.

Pulling down
houses, or pre-
meditated per-
sonal injuries.

SECT. 11. If any of the persons, unlawfully and riotously assembled, as mentioned in the fifth section, shall pull down or destroy, or begin to pull down and destroy any dwelling house or other building, or any ship or vessel, or perpetrate any premeditated injury on the person of any individual, not being a felony, he shall be punished by imprisonment in the state prison, not more than five years, or by fine, not exceeding five hundred dollars, and imprisonment in the county jail not more than one year; and shall also be answerable to any person injured; to the full amount of the damages by him sustained, in an action of trespass.

Extent of the li-
ability of towns
for injury to
private proper-
ty by persons
assembled as in
the fifth section.

SECT. 12. When any of the persons unlawfully or riotously assembled, as mentioned in the fifth section, shall destroy or injure any property to the amount of fifty dollars or more, the city or town, in which such property was situated, shall be liable to indemnify the owner thereof to the amount of three fourths of the value of such property; or the injury thereto, to be recovered in an action on the case; provided, the said owner shall use all reasonable diligence to prevent such destruction or injury, and to procure the conviction of the offenders.

Remedy of
towns against
the persons do-
ing the damage.

SECT. 13. Any city or town, which shall pay any sum under the provisions of the preceding section, may recover the same against any or all of the persons, who shall have so injured or destroyed such property, in an action on the case.

CHAPTER 160.**OF OFFENCES AGAINST CHASTITY, MORALITY AND DÉCENCY:**

- SECT. 1.** Adultery.
2. Cohabitation by parties divorced.
3. Incest.
4. Crime against nature.
5. Polygamy.
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38. Gaming, and betting on persons playing at cards, &c.
39. Justices of the peace may issue warrants to search gaming houses, and to arrest the keepers thereof for trial.

SECTION 1. Every person, who shall commit the crime of adultery, shall be punished by imprisonment in the state prison, not more than five years; and, when the crime is committed between parties, only one of whom being married, both shall be deemed guilty of adultery, and shall be punished accordingly.

Adultery.
1821, 10, § 1.
21 Pick. 509.

SECT. 2. If any persons, having been legally divorced from the bonds of matrimony, shall afterwards live and cohabit together, each of them shall be deemed guilty of adultery.

Cohabitation by parties divorced.
1821, 71, § 6.

SECT. 3. Persons being within the degrees of consanguinity or affinity, within which marriages are declared to be incestuous and void, as provided in the eighty seventh chapter, who shall intermarry or commit fornication or adultery with each other, shall be punished by imprisonment in the state prison, not more than ten years.

Incest.

SECT. 4. If any person shall be convicted of the detestable crime against nature, committed with mankind or with a beast, such offender shall be punished by imprisonment in the state prison, not more than ten years.

Crime against nature.
1821, 5.

SECT. 5. Every person, having a husband or wife living, who shall marry any other person, whether married or single, shall, except in the cases specified in the following section, be deemed guilty of polygamy, and be punished by imprisonment in the state prison, not more than five years, or by a fine, not exceeding five hundred dollars, and imprisonment in the county jail, not more than one year.

Polygamy.
1821, 10, § 2.
6 Greenl. 148.

SECT. 6. The preceding section shall not extend to any person, whose husband or wife shall have been continually absent for seven years, without being known to such person to be living within that time; nor to any person, who, at the time of such marriage, shall, at his or her own instance or application, have been divorced by a decree of a competent court.

Excepted cases.
1821, 10, § 2.
1834, 116, § 3.
1837, 292, § 3.
1 Pick. 136, 506.

SECT. 7. The indictment against any person for polygamy, may be found in the county, where such person may reside or be apprehended; and the same proceedings be had therein, as if the offence had been committed in that county.

In what county indictment may be found.

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Unmarried person, marrying the husband or wife of another.

SECT. 8. Every unmarried person, who shall knowingly marry the husband or wife of another, when such husband or wife shall be guilty of polygamy thereby, shall be punished by imprisonment in the state prison, not more than five years, or by fine, not exceeding five hundred dollars, and imprisonment in the county jail, not more than one year.

Unlawful cohabitation, one party being married. Open and gross lewdness.

1821, 10, § 3.
1 Mass. 8.
10 Mass. 153.
15 Mass. 163.
7 Greenl. 57.

SECT. 9. If any man or woman, either or both of them being at the time married to some other person, shall lewdly and lasciviously associate and cohabit together; or, if any man and woman, married or unmarried, shall be guilty of open, gross lewdness and lascivious behavior, every such person shall be punished by imprisonment in the state prison, not more than five years, or by fine, not exceeding three hundred dollars, and imprisonment in the county jail, not more than one year.

Fornication.
1821, 10, § 4.

SECT. 10. If any unmarried man shall commit fornication with any unmarried woman, each of them shall be punished by imprisonment in the county jail, not more than sixty days, and by fine, not exceeding one hundred dollars.

Concealment, by the mother, of the birth of illegitimate issue.

1821, 2, § 9, 10.

SECT. 11. If any woman shall willingly be delivered in secret, of any issue of her body, which, if born alive, would be a bastard, and shall conceal the death of the same, so that it may not be known, whether it was born alive or not, or was murdered or not, she shall be punished by imprisonment in the state prison, not more than three years, or by fine, not exceeding one hundred dollars, and imprisonment in the county jail, not more than one year.

Such offence may be alleged in the same indictment with a charge of murder.

1821, 2, § 11.

SECT. 12. In the indictment against a woman for the murder of her infant bastard child, she may be also charged with the offence described in the preceding section; and, if the jury on trial shall acquit her of the charge of murder, and find her guilty of the other offence, sentence shall be awarded against her for the same.

Procuring abortion.

9 Mass. 387.

SECT. 13. Every person, who shall administer to any woman pregnant with child, whether such child be quick or not, any medicine, drug or substance whatever, or shall use or employ any instrument or other means whatever, with intent to destroy such child, and shall thereby destroy such child before its birth, unless the same shall have been done as necessary to preserve the life of the mother, shall be punished by imprisonment in the state prison, not more than five years, or by fine, not exceeding one thousand dollars, and imprisonment in the county jail, not more than one year.

Attempting to procure abortion.

9 Mass. 387.

SECT. 14. Every person, who shall administer to any woman, pregnant with child, whether such child shall be quick or not, any medicine, drug or substance whatever, or shall use or employ any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same shall have been done, as necessary to preserve her life, shall be punished by imprisonment in the county jail, not more than one year, or by fine, not exceeding one thousand dollars.

Keeping house of ill fame.

1836, 225, § 3.

SECT. 15. Any person, who shall keep a house of ill fame, resorted to for the purpose of prostitution or lewdness, shall be punished by imprisonment in the county jail, not more than one year, or by fine, not exceeding five hundred dollars; and, any person, who, after having been once convicted of such offence, shall

again be convicted of a like offence, shall be punished by imprisonment in the state prison, not less than one year, nor more than three years.

SECT. 16. When the lessee of a dwelling house shall be convicted of keeping the same as a house of ill fame, the lease, or contract for letting such house, shall, at the option of the lessor, become void; and such lessor shall thereupon have the like remedy to recover possession, as against a tenant, holding over after the expiration of his term.

Lease to party convicted, void, at election of the lessor.

SECT. 17. Any person, who shall inveigle or entice any female, before reputed virtuous, to a house of ill fame, or shall knowingly conceal, or aid or abet in concealing, any such female, so deluded or enticed, for the purpose of prostitution or lewdness, shall be punished by imprisonment in the state prison, not less than one year, nor more than ten years.

Enticing females to houses of ill fame. 1836, 225, § 2.

SECT. 18. When there is reason to believe that any female has been inveigled, deluded or enticed to a house of ill fame, as aforesaid, upon complaint thereof being made under oath, by any overseer of the poor, police officer or constable, or by the parent, master or guardian of such female, to any justice of the peace, or other magistrate authorized to issue warrants, he may issue his warrant to enter, by day or night, such house or houses of ill fame, and to search for such female, and to bring her and the person in whose possession or keeping she may be found, before such justice or magistrate; who may, on examination, order her to be delivered to such overseer, parent, master or guardian, or to be discharged, as law and justice may require; which warrant shall be procured, made, issued and executed, as other search warrants, according to the provisions in the one hundred and seventieth chapter.

Warrants to search for females, supposed to be so enticed. 1836, 225, § 1.

SECT. 19. If any person shall import, print, publish, sell or distribute any book, pamphlet, ballad, or any printed paper, containing obscene language or obscene prints, pictures or descriptions, manifestly tending to corrupt the morals of youth, or shall procure, receive or have any of them in his possession, with intent to sell, loan, exhibit or circulate the same, he shall be punished by imprisonment in the county jail, not more than one year, or by fine, not exceeding five hundred dollars.

Obscene books and pictures. 17 Mass. 336.

SECT. 20. A warrant to search for such obscene books, pamphlets, prints, pictures or other things, mentioned in the preceding section, may be issued by any justice of the peace, in the manner provided in the one hundred and seventieth chapter; and, when any of them shall be found by the officer executing such warrant, they shall be brought before such justice, and kept by him or the officer, so long as may be necessary for the purpose of being used as evidence in any case respecting the same, or the person in whose possession they be found, or any other person concerned in their printing, introduction or circulation as aforesaid; and, on conviction of any offender so prosecuted, the said books, pamphlets, prints or pictures shall be destroyed by order of the court, in which such conviction may be had.

Warrants to search for such books, &c.

SECT. 21. If any person shall wilfully blaspheme the holy name of God, by denying, cursing or contumeliously reproaching God,

Blasphemy. 1821, 8, § 1. 20 Pick. 206.

CHAP. 160. his creation, government or final judging of the world, or by cursing or contumeliously reproaching Jesus Christ or the Holy Ghost, or the Holy Scriptures, as contained in the canonical books of the Old and New Testament, or by exposing them to contempt or ridicule, he shall be punished by imprisonment in the state prison, not more than two years, or by fine, not exceeding two hundred dollars, and imprisonment in the county jail, not more than one year.

Profanity.
1821, 8, § 2.

SECT. 22. If any person, arrived at years of discretion, shall profanely curse or swear, upon being convicted thereof, on complaint before a justice of the peace, he shall be punished by a fine, not exceeding two dollars; and, for a subsequent offence of the like kind, committed after a previous conviction, by a fine, not exceeding five dollars; provided, the complaint be made within twenty days after commission of the offence.

Disturbing public worship.
1821, 9, § 8.

SECT. 23. If any person, on the Lord's day, or at any other time, shall wilfully interrupt or disturb any assembly of people for religious worship, within the place of such assembly or out of it, he shall be punished by imprisonment in the county jail, not more than thirty days, or by fine, not exceeding ten dollars.

Offenders to be apprehended and detained.
1824, 270, § 1, 2, 4.

SECT. 24. It shall be the duty of every justice of the peace, sheriff, deputy sheriff, constable, grand juror and tythingman, who may be present at any assembly for religious worship, which may be interrupted or disturbed, as mentioned in the preceding section, to apprehend or cause to be apprehended any person so offending, and him to detain in custody, until the close of such assembly, or until he be taken, as soon as may be conveniently, before some justice of the peace, to be dealt with according to law: and all persons present at such assembly shall, when requested, assist said officers in the execution of their duty, under penalty of the like punishment for neglect or refusal, as is provided in the twenty sixth section of the one hundred and fifty eighth chapter.

Rudeness on the Lord's day in houses of worship.
1821, 9, § 7.

SECT. 25. If any person shall, on the Lord's day, within the walls of any house of public worship, behave rudely or indecently, he shall be punished by fine, not exceeding ten dollars, or by imprisonment in the county jail, not more than thirty days.

Business, traveling, and recreation on the Lord's day prohibited.
1821, 9, § 1, 2.

SECT. 26. If any person shall, on the Lord's day, keep open his shop, workhouse, or warehouse, or travel or do any work, labor or business on that day, works of necessity or charity excepted, or use any sport, game or recreation, or be present at any dancing, public diversion, show or entertainment, encouraging the same, he shall be punished by a fine, not exceeding ten dollars.

4 Mass. 462.
6 Mass. 76.
8 Mass. 87.
16 Pick. 247.

Restrictions on innholders, retailers, &c. on the Lord's day.
1821, 9, § 3.
2 Pick. 139.

SECT. 27. If any innholder, retailer of spirituous liquors, or other person, keeping a house of public entertainment, shall, on the Lord's day, suffer any persons, not being travelers, strangers or lodgers in such house, to abide and remain in his house, yard, orchard or field, drinking or spending their time, idly or at play, or in doing any secular business, works of necessity or charity, excepted, he shall be punished by a fine, not exceeding four dollars, for every person so suffered to abide and remain; and, upon any subsequent conviction of a like offence, committed after the former conviction, he shall be punished by a fine, not exceeding ten dollars for each offence; and, upon a third conviction, he shall also be incapable of

holding a license: and every person, so abiding, drinking and spending his time, shall be punished by a fine, not exceeding four dollars for each offence.

SECT. 28. For the purposes of the provisions of the two preceding sections, the Lord's day shall be construed to include the time, between the midnight preceding, and the sun setting of, the same day.

SECT. 29. If any person, on the evening preceding or following the Lord's day, shall be present at any dancing or other public diversion, except concerts of sacred music, or shall then use any sport, game or recreation, or if any innholder, retailer or keeper of a public house, shall then suffer to abide and remain in his house or places appurtenant, any persons drinking, or spending their time idly or at play, such persons not being travelers, strangers, or lodgers in such house, shall be punished by a fine, not exceeding three dollars.

SECT. 30. No person, who conscientiously believes that the seventh day of the week ought to be observed, as the sabbath, and actually refrains from secular business and labor on that day, shall be liable to the said penalties for performing secular business and labor on the Lord's day, or first day of the week; provided, he disturbs no other persons.

SECT. 31. It shall be the duty of all tythingmen, to take notice of, and to prosecute for all offences violating the Lord's day, as described in the twenty fifth, twenty sixth, twenty seventh and twenty ninth preceding sections; and the same may be prosecuted, either in the district court, or, when the fine or fines shall not exceed ten dollars, by complaint before a justice of the peace; provided, the indictment be found or complaint be made, within six months next after the commission of the offence.

SECT. 32. If any person, without the permission of the board of health, selectmen or overseers of the poor of any town, or the mayor or aldermen of any city, or other legal authority, shall wilfully dig up, disinter, remove or carry away any human body or the remains thereof from its place of interment, or aid or assist in so doing, or shall wilfully receive, conceal or dispose of any such human body or the remains thereof, or if any person shall wilfully and unnecessarily, and in an improper manner, indecently expose, throw away or abandon any human body or the remains thereof, in any public place or in any river, stream or other place, every such offender shall be punished by imprisonment in the county jail, not more than one year, or by fine, not exceeding one thousand dollars.

SECT. 33. If any officer shall take the body of any deceased person by any writ or execution, he shall be punished by a fine, not exceeding five hundred dollars, or by imprisonment in the county jail, not more than six months.

SECT. 34. If any person shall wilfully destroy or injure any tomb, grave stone, monument or other thing, placed or designed as a memorial of the dead, or any fence, railing or other thing placed about the same, or any place inclosed for the burial of the dead, or shall wilfully destroy, injure, or remove any tree, shrub or plant within such inclosure, he shall be punished by imprisonment in the

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When the Lord's day begins and ends, constructively. 1821, 9, § 4.

Public amusements, &c. prohibited on the evenings of Saturday and Sunday. 1821, 9, § 5.

Persons conscientiously observing the seventh day, as the sabbath.

What officers shall prosecute for violations of the Lord's day. 1821, 9, § 6, 12, 13. 13 Mass. 324.

Unauthorized disinterment, or improper exposure, or abandonment of dead bodies. 1821, 15, § 1, 2. 1 Greenl. 226. 8 Pick. 370. 10 Pick. 37.

Arrest of the body of a deceased person prohibited. 1821, 16.

Injury to monuments, and places of sepulture.

CHAP. 160. county jail, not more than one year, or by fine, not exceeding five hundred dollars.

Cruelty to animals.
1821, 4, § 7.

SECT. 35. Every person, who shall cruelly beat or torture any horse, or ox, or other animal, whether belonging to himself or another, shall be punished by imprisonment in the county jail, not more than one year, or by fine, not exceeding two hundred dollars.

Drunkenness.

SECT. 36. Any person, who shall be guilty of drunkenness by the voluntary use of intoxicating liquor, shall, for the first offence, be punished by a fine, not exceeding five dollars; and, for any like offence, committed after the first conviction, shall be punished by a fine, not exceeding ten dollars, or by imprisonment in the county jail or house of correction, not more than three months; but no prosecution therefor shall be commenced after three months from the commission of the offence; and any justice of the peace shall have jurisdiction of such offence, concurrent with the district court.

Houses resorted to, for gaming.
1821, 183, § 4.
1836, 221, § 1.

SECT. 37. If any person or corporation shall keep a house, shop or other place, resorted to for the purpose of gaming, or shall permit any person in any house or shop or other place under his care or control, to play at cards, dice, billiards, or other game for money or other thing, such offender shall be punished by a fine, not less than twenty dollars, and not more than one hundred dollars, to the use of the prosecutor thereof.

Gaming, and betting on persons playing at cards, &c.
1821, 18, § 3, 4.
1836, 221, § 2.

SECT. 38. If any person shall, for money or other thing, play at cards, dice, billiards or other game, or with any implements used in gaming, or shall bet on any person so playing, he shall be punished by a fine, not less than one dollar, and not more than twenty dollars to the use of the prosecutor therefor, either by indictment or by complaint before a justice of the peace, in which latter case the fine shall not exceed ten dollars.

Justices of the peace may issue warrants to search gaming houses, and to arrest the keepers thereof for trial.

SECT. 39. If any person shall make oath before a justice of the peace, that he has probable cause to suspect and does suspect, that any house or building, naming the house and the occupant in said complaint, is unlawfully used as a common gaming house for the purpose of gaming for money or other property, and that idle or dissolute persons resort to the same for that purpose, whether they be known to the complainant or not, such justice shall issue his warrant in the manner, and subject to the provisions contained in the eighteenth section of this chapter, for the search for all such implements as are above named; and, if found there, or any of them, for the apprehension also of the occupant or keeper of such house or other building; and, after such search, seizure and arrest, the said implements and said keeper shall be carried before such justice, to be disposed of according to law.